

E 183

.8

H2F7

Copy 4

|

The Seizure of Haiti

BY THE

United States

A REPORT

ON THE MILITARY OCCUPATION OF THE REPUBLIC OF HAITI
AND THE HISTORY OF THE TREATY FORCED UPON HER

BY

FREDERICK BAUSMAN Seattle	FREDERICK A. HENRY Cleveland
ALFRED BETTMAN Cincinnati	JEROME S. HESS New York
WILLIAM H. BRYNES New Orleans	WILLIAM H. HOLLY Chicago
CHARLES C. BURLINGHAM New York	CHARLES P. HOWLAND New York
ZECHARIAH CHAFEE, Jr. Cambridge	FRANCIS FISHER KANE Philadelphia
MICHAEL FRANCIS DOYLE Philadelphia	GEORGE W. KIRCHWEY New York
WALTER L. FLORY Cleveland	LOUIS MARSHALL New York
RAYMOND B. FOSDICK New York	ADELBERT MOOT Buffalo
FELIX FRANKFURTER Cambridge	JACKSON H. RALSTON Washington, D. C.
HERBERT J. FRIEDMAN Chicago	NELSON S. SPENCER New York
JOHN P. GRACE Charleston, S. C.	MOORFIELD STOREY Boston
RICHARD W. HALE Boston	TYRRELL WILLIAMS St. Louis

ISSUED BY THE FOREIGN POLICY ASSOCIATION
3 West 29th Street, New York, N. Y.

Endorsed and Distributed by
THE NATIONAL POPULAR GOVERNMENT LEAGUE
637 Munsey Building, Washington, D. C.

APRIL, 1922

ONE MILLION COPIES
PRINTED IN U.S.A.

NOV 25 1939

DIVISION OF DOCUMENTS

INTRODUCTORY NOTE

Every material statement made in this document is derived from the Official Report of the Hearings before a Select Committee of the United States Senate pursuant to Senate Resolution 112, authorizing an inquiry into the occupation and administration of the territories of the Republic of Haiti and the Dominican Republic. These hearings took place from October 4 to November 16, 1921. The official record of the proceedings has been published by the Government Printing Office. The facts disclosed are not only a part of the history of Haiti but most of them are established by testimony, by public documents and official communications and reports passing between the Secretary of the Navy, the Honorable Josephus Daniels, Rear Admiral William B. Caperton, United States Navy, and other officials. It is intended that the facts recited shall supply their own commentary. It is hoped that a recognition of the truth will lead to the adoption of the logical remedy.

THE SEIZURE OF HAITI BY THE UNITED STATES

FROM 1804 to 1915 Haiti was a sovereign state under a republican form of government. As a recognized sovereign nation she became a signatory to The Hague Convention of 1907. She won her independence from France in 1804. She was deprived of it in 1915 by the United States. Since then we have been in virtual control of her territory, our marines have been in military occupation of the country, and the former republic has been stripped by us of every vestige of her sovereignty. This startling condition has been brought about under cover of a convention between the United States and the Republic of Haiti bearing date September 16, 1915, but not ratified by Haiti until November 11, 1915, under circumstances that will be presently detailed.

RELATIONS BETWEEN THE UNITED STATES AND HAITI

The population of Haiti is somewhat less than three million. It is largely illiterate, and except in the more important towns there is no middle class. There is an upper class, comparatively small numerically, but highly educated and cultured. As a colony Haiti suffered all the horrors of cruel slavery, with the consequence that a century of independence has not effaced the fear of foreign encroachment and domination. As a measure of protection against alien control, the several constitutions of the republic have embodied provisions rigidly excluding foreigners from the ownership of land. From an economic standpoint conditions have been and are exceedingly primitive. From time to time there have been internal political dissensions resulting in disturbances. It is noteworthy, however, that no American citizen has been injured in person or property by the people of Haiti; nor have any other foreigners been molested, even when internal conflict occurred. Foreign investments have at all times been respected, the interest on Haiti's foreign debt has been scrupulously paid, and her

relations with other governments have been free from adverse criticism. She has never manifested hostility to the United States and has given no occasion for our intervention in her affairs.

Haiti has, however, been long suspicious of possible attempts by the United States to gain a foothold in or complete control over her territory. From 1847 on, the United States has in fact made several attempts to obtain control of the harbors of Samana Bay, on the eastern coast of the Dominican Republic, and of Mole St. Nicholas, on the northwest coast of Haiti, for avowed use as naval bases. Haiti consistently declined to consider either a cession or lease of any part of her territory to the United States. Nevertheless, in 1891, our Government sent Admiral Gherardi with a considerable fleet to Port au Prince, the capital of Haiti, to treat for a cession or lease of Mole St. Nicholas. The Haitian Government objected even to a discussion of the proposal, and our fleet was withdrawn.

On six occasions during 1914 and 1915 the United States made direct overtures to Haiti to secure control of her custom houses and their administration. All of these efforts proved futile. In the meantime a number of revolutions were in progress in Haiti, similar in character to those that have frequently occurred in Mexico and in various Central American and South American countries, and frequent changes in governmental administration took place.

Vessels belonging to our navy frequently entered Haitian waters. In the latter part of 1914 our Government offered assistance to the then President of Haiti, in view of a threatened revolution, upon conditions which were rejected. In October, 1914, Mr. Bryan, then Secretary of State, wrote to President Wilson:

It seemed to me of first importance that the naval force in Haitian waters should be at once increased, not only for the purpose of protecting foreign interests, *but also as evidence of the earnest intention of this Government to settle the unsatisfactory state of affairs which exists.*¹ [Italics ours.]

In accordance with this program additional vessels were dispatched into the vicinity of Haiti. In November and December, 1914, the State Department communicated various terms, including the control of the custom houses of Haiti, as conditions upon which a newly chosen President would be recognized by our Government. Haiti again declined these conditions.

On December 10, 1914, the United States Minister in Haiti formally presented to the Haitian Government a project looking to the control and administration of the Haitian customs service by our Government. This likewise proved unacceptable.

THE SEIZURE OF HAITIAN FUNDS BY THE UNITED STATES IN DECEMBER, 1914²

On December 17, 1914, without preliminary warning, a force of United States marines was landed at Port au Prince from the U. S. S. Machias. These marines proceeded to the vaults of the National Bank of Haiti, and forcibly seized and carried away \$500,000, which were transported on the Machias to New York. This money was the prop-

erty of the Haitian Government and had been deposited in the bank for the redemption of its paper currency. This bank was a French corporation, four-fifths of its capital stock being owned or held in France and the remaining one-fifth by New York banking interests. This institution was the sole depository of the government funds and was vested with the privilege of issuing notes. The Haitian Government at once protested against this violation of its sovereignty and asked for an explanation, which was never vouchsafed.

In March, 1915, the United States sent a special mission to Haiti to negotiate for American control, which was again refused. This was followed in May, 1915, by a further commission, which presented to the Haitian Government a project for United States military protection and intervention, arbitration of claims made by foreigners, and the prohibition of the cession or use of Mole St. Nicholas to any other government. To this proposal the Haitian Government presented a counter-project for financial and military aid, carefully drawn to limit absolutely the extent and duration of military aid by the United States in suppressing internal disorders. These proposals again came to nothing.

THE LANDING OF OUR MARINES IN HAITI IN JULY, 1915

On July 27, 1915, revolutionary disorders broke out at Port au Prince, during which the assassination of the President followed a massacre of political prisoners. For the moment there was no Haitian Government, but even during these disturbances no foreigners were molested. On the following day American naval and marine forces in Haitian waters, under the command of Admiral Caperton, landed and occupied Port au Prince, and shortly afterwards took possession of the other principal ports and towns in the republic. During this period the Admiral's official messages to the Navy Department state specifically that he had acquired and exercised control of the internal situation and that governmental functions were being carried on by a body of citizens acting under his directions. A few days later he directed this committee of citizens to resign and gave orders for the restoration of the government treasury service to the National Bank of Haiti, from which it had been removed previously by the Haitian Government.

THE ELECTION OF A NEW PRESIDENT FOR HAITI

The Admiral's daily reports to Washington reflect with startling frankness the situation at the Haitian capital, the march of events looking to the realization of expectations, and the influence exerted by the United States in the election of the new President and in the negotiation and acceptance of a treaty.

The Haitian Legislature, consisting of a Chamber of Deputies and a Senate, was in session and was about to proceed to the election of a new President to fill the existing vacancy, but under orders from our State Department, Admiral Caperton twice induced the Chambers to postpone the election. American naval officers at the capital can-

vassed the political situation carefully. Several prominent and universally respected Haitian citizens were asked to be candidates for the Presidency, but all refused. One of them, M. Léger, former Minister at Washington, characterized by Lord Pauncefote as "the ablest, most accomplished diplomat I have known,"³ refused upon the ground that he was for Haiti, not for the United States, and that he would have to wait and see what the United States would demand of Haiti in order to be in a position to defend Haitian interests. When Sudre Dartiguenave, the president of the Senate, proclaimed himself a candidate for election to the Presidency of the Republic and offered if elected President to accede to any terms which the United States might name, including the surrender of customs control and the cession of Mole St. Nicholas, Admiral Caperton notified Washington of the fact. He advised that the breaking up of the bands of revolutionaries by the forces of the United States was imperative if the United States desired at this time "to negotiate a treaty for financial control of Haiti."⁴ The State Department, "by the instruction of the President," requested the Navy Department to send a sufficient force of marines to control the situation absolutely, and Caperton was instructed that the United States favored the election of Dartiguenave.⁵

The policy that had been formulated at Washington was expressed in a message wherein the Navy Department directed the Admiral by proclamations and otherwise "to assure the Haitian people that the United States of America has no object in view except to insure, establish, and help maintain Haitian independence, and the establishment of a firm and stable government by the Haitian people. . . . It is the intention to retain United States forces in Haiti only so long as will be necessary for this purpose."⁶

In the meantime, the State Department had advised the American Minister at Port au Prince of the procedure that he was to pursue to assist the Haitian Congress in electing a President, saying that the United States would expect to be intrusted with customs control and such financial control as might be deemed necessary. The night before the election, American naval officers informed the Senators, Deputies, and candidates for President of the intentions and policy of the United States, as instructed.

On August 12, 1915, M. Dartiguenave was elected President, Admiral Caperton's chief-of-staff being on the floor of the voting hall and American marines guarding the approaches. The election was free in the sense that the Deputies and Senators who voted were not terrorized by revolutionary groups, but on the other hand the situation, precipitated by the events of July 27 and 28, was such that the naval and marine forces under Admiral Caperton clearly exercised a strong influence in favor of Dartiguenave. American intervention was a *fait accompli*: American military control was growing from day to day. The State and Navy Departments were kept fully informed of all developments, and the presence and activities of our naval forces were specifically directed from Washington.

On August 14, 1915, two days after the election of Dartiguenave, the State Department notified the American Legation at Port au Prince

to submit to the Haitian President at once the draft of a treaty providing for control of customs and finances and military intervention by the United States. The Legation was instructed to advise the Haitian President that "the Haitian Congress will be pleased to pass forthwith a resolution authorizing the President-elect to conclude, without modification, the treaty submitted by you."⁷ The Legation complied. A carefully formulated draft of a treaty, unquestionably prepared for the occasion with manifest deliberation, was accordingly submitted on August 17, 1915. Negotiations for its acceptance and ratification were unremittingly carried on by Admiral Caperton and his naval officers in conjunction with the Legation.

THE TREATY

This elaborate document begins with a preamble which, in the light of the facts related and those about to be recounted, is the height of irony. It declares:

The United States and the Republic of Haiti, desiring to confirm and strengthen the amity existing between them by the most cordial cooperation in measures for their common advantage, and the Republic of Haiti desiring to remedy the present condition of its revenues and finances, to maintain the tranquillity of the Republic, to carry out plans for the economic development and prosperity of the Republic and its people, and the United States being in full sympathy with all of these aims and objects and desiring to contribute in all proper ways to their accomplishment, . . . have appointed for that purpose plenipotentiaries.⁸

By its terms the President of Haiti is to appoint, upon the nomination of the President of the United States, a general receiver, to collect, receive, and apply all customs duties on imports and exports accruing at the several custom houses and ports of entry of the Republic of Haiti. Upon nomination by the President of the United States the President of Haiti is to appoint a Financial Adviser, who shall be an officer attached to the Ministry of Finance, to give effect to whose proposals and labors the Ministry will lend efficient aid. The Financial Adviser is, among other things, to devise an adequate system of public accounting, to aid in increasing the revenues and adjusting them to the expenses, to inquire into the validity of the debts of the Republic, to recommend improved methods of collecting and applying the revenues. The Government of the Republic of Haiti is to provide by law or appropriate decrees for the payment of customs duties to the General Receiver, and to extend to the receivership and to the Financial Adviser all needed aid and full protection in the execution of the powers conferred and duties imposed. All sums collected and received by the General Receiver are to be applied, first, to the payment of the salaries and allowances of the General Receiver, his assistants and employees, and expenses of the receivership, and the salary and expenses of the Financial Adviser; second, to the interest and sinking fund of the public debt of the Republic of Haiti; and, third, to the maintenance of a constabulary, and *then* the remainder to the Haitian Government for the purposes of current expenses. The Republic of Haiti is not to increase its public debt except by previous agreement with the Presi-

dent of the United States, and shall not contract any debt or assume any financial obligation unless the ordinary revenues of the Republic available for that purpose, after defraying the expenses of the Government, shall be adequate to pay the interest and provide a sinking fund for the discharge of the debt. The Republic of Haiti is not, without a previous agreement with the President of the United States, to modify the customs duties in a manner to reduce the revenues therefrom, and is to cooperate with the Financial Adviser in his recommendations for improving the method of collecting and disbursing the revenues and for new sources of needed income. The Haitian Government obligates itself to create without delay an efficient constabulary, urban and rural, composed of native Haitians. This constabulary is to be organized and officered by Americans appointed by the President of Haiti upon nomination by the President of the United States. These officers are to be clothed with the proper and necessary authority and to be upheld in the performance of their functions. The constabulary shall, under the direction of the Haitian Government, have supervision and control of arms and ammunition, military supplies and traffic therein, throughout the country. The Government of Haiti agrees not to surrender any of its territory by sale, lease, or otherwise, or jurisdiction over such territory, to any foreign Government or Power, nor to enter into any treaty or contract with any foreign Power that will impair or tend to impair the independence of Haiti. The treaty is to remain in force for ten years from the exchange of ratifications, and for a further term of ten years, if for specific reasons presented by either of the parties its purpose has not been fully accomplished.

The obligations assumed by the United States are contained in the provision:

The Government of the United States will, by its good offices, aid the Haitian Government in the proper and efficient development of its agricultural, mineral, and commercial resources, and in the establishment of the finances of Haiti on a firm and solid basis.

/ PROCEEDINGS AFTER PRESENTATION OF DRAFT OF THE TREATY

On August 19, 1915, Admiral Caperton was notified that the State Department desired him to assume charge of the ten principal custom houses in Haiti, to collect the customs dues, to use the funds for the organization of a constabulary and temporary public works, and to support the new Haitian Government. The funds were to be deposited in separate accounts in the name of Admiral Caperton, the United States Government holding these funds "in trust for the people of Haiti."¹⁹ Admiral Caperton carried out these instructions and between August 21 and September 2, 1915, seized the custom houses at the ten principal ports. For several months naval officers collected all customs dues and made all disbursements. This deprived the Haitian Government of all income whatsoever, since the custom houses were practically the sole sources of national revenue.

In response to the order of August 19, 1915, Admiral Caperton sent a long message to the Navy Department, reading in part as follows:

Following message is secret and confidential. United States has now actually accomplished a military intervention in affairs of another nation. Hostility exists now in Haiti and has existed for number of years against such action. Serious hostile contacts have only been avoided by prompt and rapid military action which has given United States control before resistance has had time to organize. We now hold capital of country and two other important seaports.¹⁰

The seizure of the custom houses aroused the strongest opposition on the part of the people, and the Haitian Government, in a series of notes addressed to the American Charge d'Affaires, protested vigorously against the violation of its sovereignty. No explanation or apology was ever offered by the Government of the United States.

OBJECTIONS TO TREATY BY THE HAITIAN CHAMBERS

In the meantime, the Haitian Government was considering the draft of the treaty submitted to it on August 17, 1915. The President was favorable to the treaty, but opposition to it was growing in the Cabinet and the Chambers due to "fear of sentiment throughout the country against the American customs control, propagated constantly during the last few years by the faction leaders."¹¹ The President and the Cabinet thereupon threatened to resign for this same reason. Admiral Caperton recommended to the Navy Department that in the event of the resignation of the new Haitian Government, a military government should be established, with an American officer as military governor, adding, significantly: "Present is most critical time in relations with Haiti, and our decision now will, to a great extent, determine future course. If military government is established, we would be bound not to abandon Haitian situation until affairs of country are set at right and predominant interests of United States of America secured."¹²

THE PROCLAMATION OF MARTIAL LAW BY ADMIRAL CAPERTON

By the early part of September, 1915, the augmented forces under command of Admiral Caperton were in complete control of all the principal towns and routes in Haiti, had seized all the sources of national revenue, had the custody of all the national funds, and were engaged in expending them directly, without turning over any portion of them to the Haitian Government. Public order and the public purse were altogether in the mastery of the Navy Department. On September 3, 1915, Admiral Caperton declared martial law in the city of Port au Prince, by proclamation, in which he announced:

... In order to afford the inhabitants of Port au Prince and other territory hereinafter described the privileges of the Government, exercising all the functions necessary for the establishment and maintenance of the fundamental rights of man, I hereby, under my authority as commanding officer of the forces of the United States of America in Haiti and Haitian waters, proclaim that

martial law exists in the city of Port au Prince and the immediate territory now occupied by the forces under my command.

I further proclaim, in accordance with the law of nations and the usages, customs, and functions of my own and other Governments, that I am invested with the power and responsibility of Government in all its functions and branches throughout the territory above described; and the proper administration of such Government by martial law will be provided for in regulations to be issued from time to time, as required, by the commanding officer of the forces of the United States of America in Haiti and Haitian waters.

The martial law herein proclaimed, and the things in that respect so ordered, will not be deemed or taken to interfere with the proceedings of the constitutional Government and Congress of Haiti, or with the administration of justice in the courts of law existing therein; which do not affect the military operations or the authorities of the Government of the United States of America. . . .¹³

On September 8, 1915, Admiral Caperton sent to the commanding officer of the battleship Connecticut in northern Haitian waters, the following message:

Successful negotiation of treaty is predominant part present mission. After encountering many difficulties treaty situation at present looks more favorable than usual. This has been effected by exercising military pressure at propitious moments in negotiations. Yesterday two members of Cabinet who have blocked negotiations heretofore resigned. President himself believed to be anxious to conclude treaty. At present am holding up offensive operations and allowing President time to complete Cabinet and try again. Am therefore not yet ready to begin offensive operations at Cape Haitien but will hold them in abeyance as additional pressure.¹⁴

Naval officers were constantly urging the members of the Haitian Government to accept the treaty pointing out the necessity of its acceptance without modification. The treaty was finally signed by the Haitian Government on September 16, 1915, and although not ratified by the United States until May, 1916, a *modus vivendi*, providing for the immediate application of the treaty, followed.

THE WITHHOLDING OF FUNDS NECESSARY FOR CURRENT EXPENSES OF HAITIAN GOVERNMENT

Under the Haitian Constitution, the treaty, to be binding, had to be ratified by the Senate and the Chamber. To facilitate its prompt ratification, the Haitian Government asked for an immediate assurance that the United States would procure a temporary loan to the Haitian Government, and represented that it had no funds at its disposal even to pay salaries and current expenses. No such assurance was received, but exercising further pressure upon the Government, Admiral Caperton under instructions from Washington, seized a consignment of un-signed bank notes intended for the Haitian Government, notifying the Navy Department that the notes so seized would be signed by the National Bank and turned over to the Haitian Government "immediately after ratification of the convention."¹⁵ This was done in spite of the fact that the issue of these notes had previously been authorized by the Haitian Government. The Admiral and the Charge d'Affaires separately requested the authorities in Washington to permit the former to turn over to the Haitian Government funds sufficient for current ex-

penses and for the payment of back salaries. The Admiral informed President Dartiguenave that "funds would be immediately available upon ratification of the treaty." The President seemed utterly discouraged by this action and humbly pointed out that the delay in ratifying the treaty was not due to any lack of effort by himself or his Cabinet; that the withholding of funds only furnished another weapon to those opposed to the treaty, and that if the United States Government persisted in withholding all funds ratification would become so difficult that he and his Cabinet would resign "rather than attempt the fight in the Senate under this handicap."¹⁶

Finally, on October 3, 1915, Secretary Daniels authorized Admiral Caperton to arrange for the payment to the Haitian Government of a weekly amount necessary to meet its current expenses, with the further statement: "Question payment back salary will be settled by Department immediately after ratification of treaty."¹⁷ The Navy Department inquired several times of Admiral Caperton why ratification of the treaty was being delayed and received the reply that since the Admiral had continually received assurances that a majority in the Senate favored the treaty, he had "refrained from taking any steps which might appear as using force to secure ratification."¹⁸ On October 6, 1915, the Chamber of Deputies ratified the treaty. It was still necessary to obtain the ratification of the Haitian Senate.

In the meantime, the funds collected at the several custom houses were being applied by the naval collectors to defray the expenses of the constabulary, of public works and the like. No payment of the interest charges on the Haitian public debt was made, although the receipts of the customs service had previously been lawfully pledged by prior Haitian governments. In fact, the treaty provisions for the use of customs funds for this purpose immediately after paying the expenses of the receivership, were never complied with by the American Receiver General until 1920, notwithstanding the fact that sufficient funds were realized from the customs to meet the demands of other categories of expenses which, according to the treaty, were subordinated to the foreign loan service.

On November 3, 1915, Admiral Caperton, referring to the treaty and to its criticisms, pointed out to President Dartiguenave that "the only objections are unimportant technical points and abstract principles. These and other details can be arranged later."¹⁹

THE FINAL ACT OF COERCION

On November 5, 1915, the Senate Committee made a report on the treaty accepting some of its provisions and suggesting modification of others. A few days later the *Hector*, one of the American naval vessels in Haitian waters, at the instance of Admiral Caperton, made a special trip to bring one François, "who will be elected to fill vacancy" from Cape Haitien to Port au Prince in order to secure his vote for the ratification of the treaty, because in the language of the Admiral: "Absolutely essential all possible votes for ratification be secured."²⁰

On November 10, 1915, the Secretary of the Navy gave the Admiral the following explicit and unprecedented instructions as to what he was to say and do:

Arrange with President Dartiguenave that he call a Cabinet meeting before the session of Senate which will pass upon ratification of treaty and request that you be permitted to appear before that meeting to make a statement to President and to members of Cabinet. On your own authority state the following before these officers: "I have the honor to inform the President of Haiti and the members of his Cabinet that I am personally gratified that public sentiment continues favorable to the treaty; that there is a strong demand from all classes for immediate ratification, and that treaty will be ratified *Thursday*. I am sure that you gentlemen will understand my sentiment in this matter, and *I am confident if the treaty fails of ratification that my Government has the intention to retain control in Haiti until the desired end is accomplished*, and that it will forthwith proceed to the complete *pacification* of Haiti so as to insure internal tranquillity necessary to such development of country and its industry as will afford relief to the *starving populace* now unemployed. Meanwhile the present Government will be supported in the effort to secure stable conditions and lasting peace in Haiti, whereas those offering opposition can only expect such treatment as their conduct merits. The United States Government is particularly anxious for immediate ratification by the present Senate of this treaty, which was drawn up with the full intention of employing as many Haitians as possible to aid in giving effect to its provisions, so that suffering may be relieved at the earliest possible date. Rumors of bribery to defeat the treaty are rife, but are not believed. However, should they prove true, those who accept or give bribery will be vigorously prosecuted." *It is expected that you will be able to make this sufficiently clear to remove all opposition and to secure immediate ratification.* Acknowledge. Daniels.²¹ [Italics ours.]

The Admiral complied with this command. In view of the express and covert threats thus conveyed, on the following day, November 11, 1915, the treaty was ratified by the Senate.

From the beginning of August, 1915, until long after the so-called ratification of the treaty, the situation in Haiti can best be described in the words of Admiral Caperton: "The status of our administration in Haiti was at this time purely one of military control."²² During this period offensive military operations were conducted by our forces against Haitian revolutionaries which resulted in considerable loss of life to the Haitians, under circumstances which will not be now discussed.

HAITI UNDER THE TREATY

Although war has never been declared by us against Haiti and there has been no possible cause for war against her or her people during the greater part of the six years following the ratification of the treaty, martial law has been maintained in Haiti by our marines, and martial law is in force there today. Repeated trials and sentences by our provost courts and military commissions have taken place there.

The Haitian Chambers were dissolved in 1917, for the second time since the invasion, and no elections have taken place in nearly five years. Not a few Haitians welcomed the original offer of our friendly aid in July, 1915, as a means of escape from the chaos of the moment. First disillusioned by our seizure of their national revenues and funds, and then by the successive coercive steps taken by the United States, they were long ago thoroughly disappointed not only by the lack of any

constructive policy instituted in their behalf but by the suppressive measures which completely violated the spirit of our professed intentions. Knowing that the treaty was imposed by duress and that it has not been adhered to by the United States the people of Haiti are now demanding its abrogation, the abolition of control by martial law, and the restoration of their national institutions suppressed during the years of the occupation. Under a subsequent protocol for a loan the receivership of customs and the financial control are to be retained during the life of the loan. Haiti is thus, under the present status, tied hand and foot to the United States, under a treaty forced upon her by military occupation, by coercion and duress, by fear of the consequences of martial law, and by the forcible seizure, the placing under an embargo, and the withholding of all her national funds and pecuniary resources.

Commentary upon this said chapter in American history is superfluous. A stain has attached to our national honor, which, unless speedily expunged, will become an indelible blot. For this great nation to play the part of a bully toward another, weak in material resources and physically powerless to maintain its sovereign rights against incalculable odds, is nothing short of political immorality. The command of self-restraint leads one to refrain from drawing parallels, and a desire to avoid all sordid considerations does not permit a reference to the economic injury that our country would inevitably sustain were it to delay further the undoing of this stupendous wrong.

THE PRESENT GOVERNMENT IN HAITI

In the spring of 1917 the Senate and Chamber of Deputies were in session engaged in considering the draft of a new constitution for the country, submitted by American officials. Much opposition existed to several provisions of the proposed constitution, chiefly to one which would allow foreigners to acquire and own land. The President and Cabinet favored the draft; a deadlock was imminent. Thereupon the President dissolved the Chambers. Since then there have been no elections to and no sessions of the Chambers, which in consequence are now defunct. Such semblance of government as remains in the hands of the native Haitians is exercised by the President, a Cabinet, and a Council of State, whose members hold office solely during the pleasure of the President. It is common knowledge in Haiti that the present Government owes its continuance in power solely to the support and presence of our marines.

The term of President Dartiguenave will expire on May 15, 1922. Under the Haitian Constitution the President is chosen by the Senate and Chambers in joint meeting; the Senators and Deputies are chosen by direct popular vote in January of an even numbered year, indicated by presidential decree. No call for an election in January, 1922, was issued and there can therefore be no session of the Chambers in April to elect a President for the new term commencing May 15. There will thus exist either a vacancy or, without constitutional authority, the

present incumbent, or a nominal successor, will be appointed by the Council of State. In any event, after May 15, 1922, the Government will be even less representative than it has been since the treaty. It is not unreasonable to assume that Washington could without difficulty induce the Haitian Government to proceed to the election of Chambers and of a successor to President Dartiguenave at an early day. It is only with such a new Haitian Government that any negotiations for a realignment of Haitian-American relations or for an adjustment of Haitian finances can fairly be carried on. To negotiate with the Government of President Dartiguenave would be in keeping with the methods employed in 1915 to force acceptance of the treaty. The continuance of this state of affairs is intolerable to those proud of American traditions and moved by the spirit of liberty and justice.

CONCLUSIONS

From the foregoing summary of the salient facts as to our intervention in Haiti and descriptive of the present status of the Haitian Government we deduce these general and specific conclusions:

1. The presence of our military forces in Haiti after the disturbances of July 27-28, 1915, had quieted down was violative of well-recognized American principles.
2. The seizure and withholding by our forces in 1915 of Haitian national funds was a violation of international law and of the repeated professions by responsible American government officials of our position and attitude toward Latin-American republics and weaker governments.
3. The imposition and enforcement of martial law without a declaration of war by our Congress and the conduct of offensive operations in Haiti by Admiral Caperton prior to the acceptance of the treaty by Haiti were equally clear violations of international law and of our own Constitution.
4. The methods employed by the United States in Haiti to force acceptance and ratification of the treaty framed by the United States, namely, the direct use of military, financial, and political pressure, violate every canon of fair and equal dealing between independent sovereign nations and of American professions of international good faith.
5. The maintenance in Haiti of any United States military force or of the control exercised by treaty officials under cover of the treaty of September, 1915, amounts to a conscious and intentional participation in the wrong of the original aggression and coercion.
6. The present native Government of Haiti, chosen in 1915, unsupported by any elected representatives since 1917, being now at the end of its term of office, no negotiations should take place with such Government which involve the future of Haiti or which can in any material respect affect its future.

7. The functions of a department of colonies and dependencies assumed by the Navy Department and conferred on it by mere executive action are unauthorized by Congress or by other sanction of law, and should be condemned as essentially illegal and as a usurpation of power.

8. We declare, without qualification, that the honor and good name of the United States, the preservation of the sovereignty and the cherished liberty of Haiti and her right to fair dealing on the part of the United States, as well as the possibility of assuring the continuance in the future of honorable and amicable relations between our country and Latin-America, based on trust and confidence, all require:

(a) The immediate abrogation by the United States of the treaty of 1915, unconditionally and without qualification.

(b) The holding of elections of representatives to the legislative bodies of Haiti and of a President by the free will of the people at an early day.

(c) The negotiation of a new treaty with a new Haitian administration for friendly cooperation between the United States and Haiti upon such terms as shall be mutually satisfactory to both countries and by the methods that obtain between free and independent sovereign states.

REFERENCES

¹ Official Report of hearings before a Select Committee of the United States Senate pursuant to Senate Resolution 112 authorizing a special committee to inquire into the Occupation and Administration of the territories of the Republic of Haiti and the Dominican Republic, p. 338.

² *Ibid.*, p. 122.

⁹ *Ibid.*, p. 334.

¹⁶ *Ibid.*, p. 381.

³ *Ibid.*, p. 320.

¹⁰ *Ibid.*, p. 335.

¹⁷ *Ibid.*, p. 383.

⁴ *Ibid.*, p. 313.

¹¹ *Ibid.*, p. 336.

¹⁸ *Ibid.*, p. 387.

⁵ *Ibid.*, p. 315.

¹² *Ibid.*, p. 338.

¹⁹ *Ibid.*, p. 391.

⁶ *Ibid.*, p. 313.

¹³ *Ibid.*, p. 348.

²⁰ *Ibid.*, p. 393.

⁷ *Ibid.*, p. 327.

¹⁴ *Ibid.*, p. 353.

²¹ *Ibid.*, p. 394.

⁸ *Ibid.*, p. 204.

¹⁵ *Ibid.*, p. 381.

²² *Ibid.*, p. 404.

THE LAWYERS WHO ARE SIGNATORIES OF THE BRIEF

FREDERICK BAUSMAN of Seattle, is a former judge of the Supreme Court of Washington and senior member of the firm of Bansman, Oldham, Bullitt & Eggerman.

ALFRED BETTMAN of Cincinnati, formerly City Solicitor of Cincinnati and Special Assistant U. S. Attorney General, is a member of the firm of Moulinier, Bettman & Hunt.

WILLIAM H. BRYNES of New Orleans is the senior member of the firm of Brynes, Mooney, Booth & Norman, a former Louisiana State Senator and a member of the State Constitutional Convention of 1921.

CHARLES C. BURLINGHAM of New York is senior member of the firm of Burlingham, Veeder, Masten & Fearey, has been president of the New York Board of Education and was United States delegate to the International Conference on Maritime Law in 1909.

ZECHARIAH CHAFFEE, Jr., is professor at the Harvard Law School.

MICHAEL FRANCIS DOYLE of Philadelphia was special agent of the Department of State to care for American citizens in Europe at the beginning of the war, and acting counselor in 1915 of the American Legation, Switzerland, and of the American Embassy, Vienna.

WALTER L. FLORY of Cleveland is a member of the firm of Thompson, Hine & Flory.

RAYMOND B. FOSDICK of New York is a member of the firm of Curtis, Fosdick & Belknap. He was chairman of the Commission on Training Camp Activities of the War and Navy Departments in 1917-1918.

FELIX FRANKFURTER is professor at the Harvard Law School, former law officer of the Bureau of Insular Affairs, War Department, Major and Judge-Advocate, O. R. C., and ex-Chairman of the War Labor Policies Board.

HERBERT J. FRIEDMAN of Chicago is a member of the firm of Kelly, Friedman, Schwartz & Doyle, and was a member of the Federal Industrial Commission in 1918.

JOHN P. GRACE is Mayor of Charleston, S. C., and a member of the firm of Logan & Grace.

RICHARD W. HALE of Boston is senior member of the firm of Hale & Dorr.

FREDERICK A. HENRY of Cleveland is a former judge of the Court of Appeals of Ohio and a member of the firm of Snyder, Henry, Thomsen, Ford & Seagrave.

JEROME S. HESS of New York is senior member of the firm of Hardin & Hess.

WILLIAM H. HOLLY is a Chicago attorney who has given especial attention to the history and development of constitutional law.

CHARLES P. HOWLAND is a New York attorney.

FRANCIS FISHER KANE, senior member of the firm of Kane & Runk of Philadelphia, is former United States District Attorney for the Eastern District of Pennsylvania.

GEORGE W. KIRCHWEY of New York has been dean of the Albany Law School, and from 1891 to 1910 successively professor of Law, dean of the Law School, and Kent professor of Law at Columbia University. He is a director of the American Society of International Law.

LOUIS MARSHALL of New York has been for years prominent in legislation and legal reform, member of three New York State Constitutional Conventions, chairman of the Committee on Amendment of Law of the Association of the Bar of the City of New York.

ADELBERT MOOT of Buffalo is ex-president of the New York State Bar Association and a member of the firm of Moot, Sprague, Brownell & Marcy.

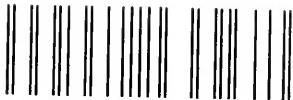
JACKSON H. RALSTON of Washington is the senior member of the firm of Ralston & Wills, was counsel in the first case submitted to the Permanent Court of Arbitration at the Hague, umpire named by the United States for the Italian claims against Venezuela in 1903 and is the author of "International Arbitral Law and Procedure."

NELSON S. SPENCER of New York is a member of the firm of Spencer, Ordway & Wierum. He is president of the City Club of New York.

MOORFIELD STOREY of Boston, member of the firm of Storey, Thordike, Palmer & Dodge, has been president of the American Bar Association, the Massachusetts Bar Association, and the Bar Association of the City of Boston.

TYRRELL WILLIAMS is dean of the Washington University Law School at St. Louis.

LIBRARY OF CONGRESS



0 011 463 003 2